

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

RE: ECF No. 6580

**AAFAF’S REPLY TO FINANCIAL GUARANTY INSURANCE COMPANY’S
OBJECTION AND RESERVATION OF RIGHTS TO URGENT MOTION FOR ENTRY
OF AN ORDER APPROVING STIPULATION AND CONSENT ORDER BETWEEN
TITLE III DEBTORS (OTHER THAN COFINA) AND THE PUERTO RICO FISCAL
AGENCY AND FINANCIAL ADVISORY AUTHORITY ACTING ON BEHALF OF
THE GOVERNMENTAL ENTITIES LISTED ON APPENDIX “A” REGARDING THE
TOLLING OF STATUTE OF LIMITATIONS**

To the Honorable United States District Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) on behalf of the Governmental Entities², respectfully submits this response to the *Objection and Reservation of Rights of Financial Guaranty Insurance Company to Urgent Motion for Entry of an Order Approving Stipulation and Consent Order Between Title III Debtors (Other than Cofina) and the Puerto Rico Fiscal Agency and Financial Advisory Authority Acting on Behalf of the*

¹ The Debtors in these Title III Cases, along with each Title III Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² Defined terms not otherwise defined herein shall have the same meaning ascribed to them in the Urgent Motion and Stipulation (defined below).

Governmental Entities Listed on Appendix “A” Regarding the Tolling of Statutes of Limitations [ECF No. 6580, the “Objection”] filed by Financial Guaranty Insurance Company (“FGIC”).

1. On April 28, 2019, the Commonwealth of Puerto Rico (the “Commonwealth”), the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”), the Puerto Rico Highways and Transportation Authority (“HTA”), and the Puerto Rico Electric Power Authority (“PREPA”), each in its capacity as a Title III debtor (the Commonwealth, ERS, HTA and PREPA together the “Title III Debtors”), and each by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the representative of Title III Debtors and AAFAF filed the *Urgent Motion For Entry of Order Approving Stipulation and Consent Order Between the Title III Debtors (other than Cofina) and the Puerto Rico Fiscal Agency and Financial Advisory Authority Acting on Behalf of the Governmental Entities Listed in Appendix “A” Regarding the Tolling of the Statutes of Limitations* [ECF No. 6535-1, the “Urgent Motion”] requesting that the Court enter an order approving the stipulation attached as Exhibit A to the Urgent Motion (the “Stipulation”) tolling certain claims that: i) the Title III Debtors purportedly have against the Governmental Entities; and ii) to the extent not already tolled by another order of the Court, that Title III Debtors may have against each other.

2. On April 30, 2019, FGIC filed the Objection arguing, among other things, that the Urgent Motion lacks information as to the potential causes of actions being tolled.

3. AAFAF, like FGIC, is not aware of specific causes of action that may be asserted by the Title III Debtors against the Governmental Entities. However, in an abundance of caution, and to avoid the potential for wasteful and resource draining litigation, AAFAF determined it was appropriate to enter into the Stipulation to preserve the status quo for both the Title III Debtors and the Governmental Entities.

4. In addition, AAFAF did so on terms virtually identical to those in tolling agreements previously approved by the Court.

5. FGIC's Objection does not identify how preserving the status quo could possibly harm it, or why it is in the interest of any of the Governmental Entities to be involved in litigation with the Title III Debtors regarding avoidance actions or similar claims right now (or vice-versa).

6. Moreover, as AAFAF is not representing any of the Title III Debtors in connection with the Stipulation, the decision to enter into the Stipulation from its perspective is not subject to creditor second-guessing.

WHEREFORE AAFAF respectfully request the Court overrule the *Objection and Reservation of Rights of Financial Guaranty Insurance Company to Urgent Motion for Entry of an Order Approving Stipulation and Consent Order Between Title III Debtors (Other than Cofina) and The Puerto Rico Fiscal Agency and Financial Advisory Authority Acting on Behalf of the Governmental Entities Listed on Appendix "A" Regarding the Tolling of Statutes of Limitations* [ECF No. 6580] and enter an order approving the Stipulation, attached as **Exhibit A** to the *Urgent Motion For Entry of Order Approving Stipulation and Consent Order Between the Title III Debtors (other than Cofina) and the Puerto Rico Fiscal Agency and Financial Advisory Authority Acting on Behalf of the Governmental Entities Listed in Appendix "A" Regarding the Tolling of the Statutes of Limitations* [ECF No. 6535].

Dated: May 1, 2019
San Juan, Puerto Rico

Respectfully submitted,

/s/ Peter Friedman

John J. Rapisardi
Suzanne Uhland
(Admitted *Pro Hac Vice*)
O'MELVENY & MYERS LLP
Seven Times Square
New York, NY 10036
Tel: (212) 326-2000
Fax: (212) 326-2061

-and-

Peter Friedman
(Admitted *Pro Hac Vice*)
1625 Eye Street, NW
Washington, D.C. 20006
Tel: (202) 383-5300
Fax: 202) 383-5414

*Attorneys for the Puerto Rico
Fiscal Agency and Financial
Advisory Authority*

/s/ Luis C. Marini-Biaggi

Luis C. Marini-Biaggi
USDC No. 222301
Carolina Velaz-Rivero
USDC No. 300913
MARINI PIETRANTONI MUÑIZ LLC
MCS Plaza, Suite 500
255 Ponce de León Ave.
San Juan, Puerto Rico 00917
Tel: (787) 705-2171
Fax: (787) 936-7494

*Attorneys for the Puerto Rico Fiscal Agency
and Financial Advisory Authority*